

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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IN RE; NATIONAL FOOTBALL LEAGUE	)	No. 2:12-md-02323 – AB
PLAYERS’ CONCUSSION INJURY LITIGATION,	)	
	)	MDL NO. 2323
	)	
	)	
<b>Second Amended Master Administrative Long-</b>	)	<b>SHORT FORM COMPLAINT</b>
<b>Form Complaint Against Riddell Defendants and</b>	)	
<b>(if applicable)</b>	)	<b>IN RE: NATIONAL FOOTBALL</b>
<u>Dave Pear, et al.</u>	)	<b>LEAGUE PLAYERS’ CONCUSSION</b>
<b>v. National Football League [et al.],</b>	)	<b>INJURY LITIGATION</b>
<b>No. <u>2:12-cv-01025-AB</u></b>	)	<b>JURY TRIAL DEMANDED</b>
	)	

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**SHORT FORM COMPLAINT AGAINST RIDDELL DEFENDANTS**

1. Plaintiff, Kelley VanWagner, Personal Representative of the Estate of James VanWagner, Deceased, brings this civil action as a related action in the matter entitled IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS’ CONCUSSION INJURY LITIGATION, MDL No. 2323.

2. Plaintiff is filing this Short Form Complaint against Riddell Defendants as required by this Court’s Case Management Order ECF No. 7709, filed May 18, 2017.

3. Plaintiff continues to maintain claims against Riddell Defendants after a Class Action Settlement was entered into between the NFL Defendants and certain Plaintiffs.

4. Plaintiff incorporates by reference the allegations (as designated below) of the Second Amended Master Administrative Long-Form Complaint Against Riddell Defendants, as is fully set forth at length in this Short Form Complaint. However, Plaintiff denies that there is federal subject matter jurisdiction over this action.

5. Plaintiff is filing this case in a representative capacity as the Personal Representative of the Estate of James VanWagner, having been duly appointed as the Personal Representative by the Circuit Court of the State of Washington, County of Josephine.

6. Plaintiff, Kelley VanWagner, is a resident and citizen of Oregon and claims damages as set forth below.

7. Upon information and belief, Plaintiff's decedent sustained repetitive, traumatic sub-concussive and/or concussive head impacts during NFL games and/or practices. Upon information and belief, Plaintiff's decedent suffered from symptoms of brain injury caused by the repetitive, traumatic sub-concussive and/or concussive head impacts Plaintiff's decedent sustained during NFL games and/or practices. Upon information and belief, Plaintiff's decedent's symptoms arose from injuries that were latent and that developed over time.

8. The original complaint by Plaintiff in this matter was filed in the Superior Court of the State of California, County of Los Angeles on August 3, 2011. If the case is remanded, it should be remanded to the Superior Court of the State of California, County of Los Angeles.

9. Plaintiff claims damages as a result of [check all that apply]:

- ☒ Injury to Herself/Himself
- ☒ Injury to the Person Represented
- ☒ Wrongful Death
- ☒ Survivorship Action
- ☒ Economic Loss

10. Plaintiff brings this case against the following Defendants in this action

[check all that apply]:

- ☒ Riddell, Inc.
- ☒ Riddell Sports Group, Inc.
- ☒ All American Sports Corp.
- ☒ BRG Sports, Inc., f/k/a Easton-Bell Sports, Inc.
- ☒ BRG Sports, LLC f/k/a Easton Bell Sports, LLC
- ☒ EB Sports Corp.
- ☒ BRG Sports Holdings Corp., f/k/a RBG Holdings Corp.

11. Plaintiff's decedent wore one or more helmets designed and/or manufactured by the Riddell Defendants during one or more years Plaintiff's decedent played in the NFL and/or AFL.

12. Plaintiff's decedent played in ☒ the National Football League ("NFL") and/or in ☐ the American Football League ("AFL") during the following period of time 1977 - 1979 for the following teams: New Orleans Saints.

13. Plaintiff's decedent retired from playing professional football after the 1979 season.

**CAUSES OF ACTION**

14. Plaintiff herein adopts by reference the following Counts of the Second Amended Master Administrative Long-Form Complaint, along with the factual allegations incorporated by reference in those Counts [check all that apply]:

- ☒ Count I (Negligence)
- ☐ Count II (Negligent Marketing)
- ☐ Count III (Negligent Misrepresentation)
- ☐ Count IV (Fraud)
- ☒ Count V (Strict Liability/Design Defect)
- ☒ Count VI (Failure to Warn)
- ☐ Count VII (Breach of Implied Warranty)
- ☐ Count VIII (Civil Conspiracy)
- ☐ Count IX (Fraudulent Concealment)
- ☒ Count X (Wrongful Death)
- ☒ Count XI (Survival Action)
- ☒ Count XII (Loss of Consortium)
- ☒ Count XIII (Punitive Damages under All Claims)
- ☐ Count XIV (Declaratory Relief: Punitive Damages)

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- A. An award of compensatory damages, the amount of which will be determined at trial;
- B. An award of economic damages in the form of medical expenses, out of pocket expenses, lost earnings and other economic damages in an amount to be determined at trial;
- C. For punitive and exemplary damages as applicable;
- D. For all applicable statutory damages of the state whose laws will govern this action;
- E. For loss of consortium as applicable;
- F. For declaratory relief as applicable;
- G. For an award of attorneys' fees and costs;
- H. An award of prejudgment interest and costs of suit; and
- I. An award of such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMAND**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: November 6, 2017

Respectfully submitted,

GOLDBERG, PERSKY & WHITE, P.C.

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